

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-cv-1406

\$599,274.58, MORE OR LESS,
IN UNITED STATES CURRENCY,

Defendant.

(Diane E. Shafer, M.D.,
No pending federal criminal charges)

FINAL AGREED ORDER OF FORFEITURE AND RELEASE

Came the parties, the United States of America, by counsel, and claimant, Diane E. Shafer, M.D., by counsel, and represented to the Court that they have fully compromised and settled Dr. Shafer's claims to the defendant property under the terms and conditions set forth in this Final Agreed Order of Forfeiture and Release.

WHEREAS, on December 23, 2010, the United States filed a Verified Complaint of Forfeiture and, on the same date, the Clerk of this Court issued a Warrant of Arrest in rem and Notice to Potential Claimants pursuant to Rule G(3)(b)(i), Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (ECF 2);

WHEREAS, on December 30, 2010, the United States served the Verified Complaint and the Warrant of Arrest in rem and Notice to Potential Claimants upon Diane E. Shafer, M.D., as evidenced by the Certificate of Service on file with the Clerk's Office in this case (ECF 3);

WHEREAS, the United States Marshals Service executed the Warrant of Arrest and Notice in rem on the defendant currency on January 3, 2011, as evidenced by the Process Receipts and Returns which are on file with the Clerk's office (ECF 5 through 11), bringing the defendant currency within the jurisdiction of the Court;

WHEREAS, on January 19, 2011, Diane E. Shafer, M.D., filed a verified claim to the defendant currency (ECF 12), and filed her answer on February 8, 2011 (ECF 14);

WHEREAS, Dr. Shafer has agreed to forfeit to the United States the sum of \$134,550.00 of the defendant property, free and clear of any right, title and interest she may have in the said currency, on the grounds that the forfeited currency constitutes proceeds traceable to certain controlled substance violations involving the misuse of a DEA registration number and, therefore, is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6). In consideration therefor, the United States agrees

to the release and dismissal from this civil forfeiture action of the remaining balance of the defendant currency;¹

WHEREAS, the United States published a Legal Notice of Forfeiture in the Charleston Daily Mail, a newspaper of general circulation within the district, on January 4, 11 and 18, 2011, as evidenced by the Affidavit of Publication on file in the Clerk's Office in this case (ECF 13);

WHEREAS, more than 30 days have elapsed since the last date of publication, no other claims have been filed against any of the defendant currency pursuant to the legal advertisement and any claims now would be time-barred;

WHEREAS, Dr. Shafer agrees to release the United States and the West Virginia State Police, and their respective agents, officers and employees, in their official and individual capacities, from any and all claims and causes of action arising out of the seizure and forfeiture of the defendant property; and

WHEREAS, Dr. Shafer hereby waives any defenses she may have to this civil forfeiture action based in whole or in part upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution.

¹The release to claimant Diane E. Shafer, M.D., of the remaining balance of the defendant currency is subject to the Treasury Offset Program, 31 U.S.C. §§ 3716(c), 3720A and 26 U.S.C. § 6402(d), which could reduce or fully offset the sum to be returned to Dr. Shafer should she owe any debts to any federal agencies, or to any state such as for past-due child support.

NOW, THEREFORE, based upon the foregoing representations of the parties, the Court hereby ORDERS that any and all right, title and interest of the claimant, Diane E. Shafer, M.D., in the sum of \$134,550.00 of the defendant currency be and the same hereby is FORFEITED to the United States;

The Court further ORDERS that the remaining balance of the defendant currency consisting of \$464,724.58, more or less, is hereby DISMISSED.

The Court further ORDERS that the United States Marshals Service shall return the balance of the dismissed funds, after any offset as more fully described in footnote 1 of this Final Order, to Diane E. Shafer, M.D., or her designated recipient, as soon as practicable.

The Court further ORDERS that this case is DISMISSED, with each party bearing their respective costs and attorney's fees.

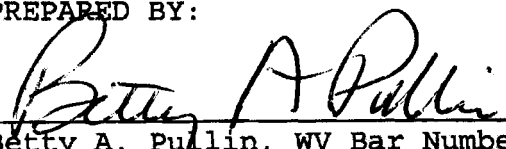
The Clerk is directed to send certified copies of this Order to counsel of record; to Sandra Foster-Watkins, Paralegal Specialist, FBI, 3311 East Carson Street, Pittsburgh, Pennsylvania, 15203; and to the United States Marshals Service, Charleston, West Virginia.

IT IS SO ORDERED this _____ day of _____, 2012.


ENTER:

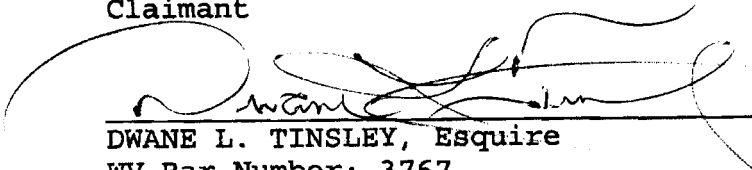
JOHN T. COPENHAVER, JR.
United States District Judge

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SEEN AND AGREED TO BY:


DIANE E. SHAFER, M.D.
Claimant


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